

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THANH GIAP

Plaintiff,

-against-

9:09-CV-503 (LEK/RFT)

BRIAN FISCHER, *Commissioner,*
Department of Correctional Services,
NANCY ANTHONY, *Nurse, Eastern*
Correctional Facility

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on March 10, 2010 by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 13). On March 10, 2010, Plaintiff Thanh Giap (“Plaintiff”) requested, and was granted, a 120-day extension to file objections to the Report-Recommendation. Dkt. No. 15. Plaintiff filed objections (“Objections”) on May 3, 2010. Dkt. No. 16.

This Court is to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* Where, however, an objecting ““party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.”” *Farid v. Bouey*, 554 F. Supp. 2d 301, 307 (N.D.N.Y. 2008) (quoting *McAllan v.*

Von Essen, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007) (citations and quotations omitted)).

The Court has considered Plaintiff's Objections (Dkt. No. 16), undertaken a de novo review of the record, and determined that the Report-Recommendation (Dkt. No. 13) should be approved for the reasons stated therein.

For the above reasons, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 13) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

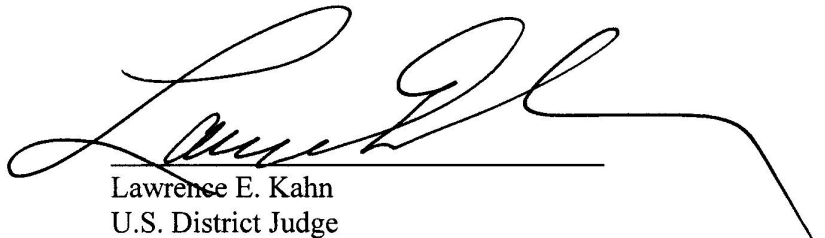
ORDERED, that Defendants' Motion to Dismiss Plaintiff's Complaint (Dkt. No. 9) is **GRANTED**; and it is further

ORDERED, that Plaintiff's Motion to Amend Complaint (Dkt. No. 11) is **DENIED** without prejudice, and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: May 11, 2010
Albany, New York



Lawrence E. Kahn
U.S. District Judge